

EXHIBIT H

**CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS
AMENDED ORDER NO. 177,159**

**REGULATIONS FOR ISSUING PERMITS TO INSTALL TRANSIT SHELTERS,
SIGNAL CONTROL COVERS AND KIOSKS IN THE PUBLIC RIGHTS-OF-WAY**

I. PURPOSE

- A. The City, through the SFMTA and the Port of San Francisco, has entered into an agreement that authorizes the Contractor to construct Transit Shelters, Signal Control Covers and Kiosks in the Public Rights-of-Way. The construction of these types of structures would normally require an excavation permit from the Department under Article 2.4 of the Public Works Code.
- B. The Department wishes to ensure that the installation of such structures in the Public Rights-of-Way will not impede travel, inconvenience property owners, unnecessarily interfere with views or create visual blight. The Department also wishes to assist the SFMTA by ensuring convenience and support for transit passengers and providing aesthetic covers to mask the SFMTA's existing signal control equipment.
- C. In order to address these concerns, rather than requiring Contractor to obtain excavation permits, the Department is adopting this Order to establish rules and regulations for Contractor to obtain Permits to install Transit Shelters, Signal Control Covers, and Kiosks.

II. DEFINITIONS

For purposes of this Order, the following terms, phrases, words, abbreviations, and other similar terms, when capitalized, shall have the meanings given herein:

- A. "Advertising" means information displayed on SFMTA Transit Shelters, Kiosks, Signal Control Covers that is commercial in nature. "Advertising" shall not include information displayed on SFMTA Transit Shelters, Signal Control Covers, or Kiosks such as City maps or other information of local interest, public service announcements, public art displays, and transit information (routes, schedules, fares, etc.).
- B. "Agreement" means the agreement between the City and Contractor to install and maintain Transit Shelters, Kiosks, Signal Control Covers, and other Structures, including Structures with advertising, in the Public Rights-of-Way and other public places.
- C. "Applicable Law" means all applicable federal, state, and City laws, ordinances, codes, rules, regulations, orders, standard plans and

specifications, as the same may be amended or adopted from time to time. Where applicable, "Applicable Law" also means the requirements contained in any agreement between the City and Contractor.

- D. "Business Day" means any Monday through Friday that is not observed as an official holiday by the City.
- E. "City" means the City and County of San Francisco.
- F. "Completion Date" means a date set forth in a Permit to complete the construction permitted therein. Unless otherwise stated in the Permit, the Completion Date will be thirty (30) Days after the Start Date.
- G. "Contractor" means any entity under contract with the SFMTA to provide, construct and maintain Transit Shelters, Signal Control Covers and Kiosks in the Public Rights-of-Way.
- H. "Day" means any calendar day. For the purposes hereof, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. For the purposes hereof, if the time in which an act is to be performed falls on a Saturday, Sunday, or any Day observed as an official holiday by the City, the time for performance shall be extended to the following Business Day.
- I. "Department" means the Department of Public Works.
- J. "Director" means the Director of the Department or his or her designee.
- K. "Kiosk" means a free-standing structure that will be constructed in the Public Rights-of-Way by Contractor pursuant to the Agreement that may or may not display advertising. A Kiosk that displays advertising will be referred to as an "Advertising Kiosk."
- L. "Order" means these Regulations for Issuing Permits for Transit Shelters, Signal Control Covers and Kiosks in the Public Rights-of-Way.
- M. "Permit" means a permit issued under this Order as it has been approved, amended, or renewed by the Department.
- N. "Placement Guidelines" means the guidelines set forth in Section XI.B of this Order.
- O. "Public Rights-of-Way" means the area in, on, upon, above, beneath, within, along, across, under, and over the public streets, sidewalks, roads, lanes, courts, ways, alleys, spaces, and boulevards within the

geographic area of the City in which the City now or hereafter holds any property interest, which is dedicated to public use.

- P. "SFMTA" means the San Francisco Municipal Transportation Agency.
- Q. "Signal Control Cover" means a structure to cover signal control equipment owned by SFMTA that may or may not display advertising. A Signal Control Cover that displays advertising will be referred to as an "Advertising Signal Control Cover."
- R. "Start Date" means a date set forth in a Permit to commence the construction permitted therein. Unless otherwise stated in the Permit, the Start Date will be one hundred and eighty (180) Days after the approval of a Permit application.
- S. "Transit Shelter" means a structure for use by transit passengers of the SFMTA that may or may not display advertising. A Transit Shelter that displays advertising will be referred to as an Advertising Transit Shelter.

III. PERMIT REQUIRED

Contractor shall apply for and obtain a Permit before installing a Transit Shelter, Signal Control Cover or Kiosk in the Public Rights-of-Way.

IV. PERMIT NOT REQUIRED

No Permit shall be required for Contractor to replace existing sign poles or install new sign poles at transit stops.

V. APPLICATION PROCESS

- A. An application for a Permit to install a Transit Shelter, Signal Control Cover or Kiosk shall be submitted to the Department.
- B. An application for a Permit to install a Transit Shelter, Signal Control Cover or Kiosk shall include:
 - 1. An application in the form to be provided by the Department, which shall contain the following information:
 - (a) Type of structure (include specification if not on file with the Department);
 - (b) Identification of proposed location of the structure;
 - (c) Recommendation by SFMTA as to location;
 - (d) Name, address, telephone number, facsimile number and electronic-mail address for Contractor's contact person; and

- (e) Proposed Start and Completion Dates.
2. A location drawing of the structure in a twenty feet (20') to one inch (1") scale (20:1 scale) showing each of the following:
 - (a) Street name;
 - (b) Names of cross streets;
 - (c) Face of curb;
 - (d) Property lines;
 - (e) Distance from the face of the curb to face of the structure;
 - (f) Distance from face of the curb to the property lines;
 - (g) Distance from face of the curb to back of the structure;
 - (h) Locations and dimensions of existing above-ground street furniture (utility poles, bus shelters, fire hydrants, garbage receptacles, parking meters, etc) and distance from the proposed location of the structure;
 - (i) Locations and dimensions of existing underground utility facilities (vaults, manholes, handholds, meters, etc.); and distance from the proposed location of the structure;
 - (j) Distance from nearest cross street to the structure;
 - (k) Identification of the structure type and dimensions;
 - (l) Color of the structure;
 - (m) The proposed electrical service connections and foundation details (stamped and signed by an engineer registered with the State of California); and
 - (n) If applicable, the footprint of any existing Transit Shelter or Kiosk that is being replaced.
 3. Photo-simulations of the structure in the proposed location showing each of the following:
 - (a) Front view of the structure;
 - (b) Side view of the structure; and
 - (c) View of the structure in relation to the nearest building or other structure.
 4. If the application is for a Permit for a Transit Shelter or Kiosk, a statement, if applicable, that a hearing is not required because the proposed Transit Shelter or Kiosk: (a) is replacing an existing Transit Shelter or Kiosk; and (b) the location of the proposed Transit Shelter or Kiosk complies with the requirements of Section VI.D.
 5. A statement whether Contractor is seeking a waiver of any of the Placement Guidelines, and if, so, the applicable Placement Guidelines.

6. A proposed notice for mailing and posting if notice is required under Sections VI or XI.C of this Order.
- C. The Department will process an application for a Permit to install a Transit Shelter, Signal Control Cover or Kiosk in the manner set forth below and as shown in Exhibit A attached hereto and incorporated herein by this reference:
1. If Contractor is not seeking a waiver of any of the Placement Guidelines, the Department will notify Contractor within three (3) Business Days after receipt of a Permit application whether the application complies with the Placement Guidelines.
 2. If the application does not comply with the Placement Guidelines, the Department will return the application to Contractor along with a written statement identifying any deficiencies in the application. Contractor may fix the application and resubmit it at any time or may request an exception to the Placement Guidelines under Section XI.C of this Order.
 3. If the Department notifies Contractor that a Permit application meets the Placement Guidelines, the Department will approve the Permit if no public notice is required under Sections VI.D, VI.E or VI.F of this Order. In all other instances, Contractor will notify the public of the application as required in Sections VI.A or VI.B of this Order.
 4. If Contractor is seeking a waiver of the Placement Guidelines, the Department will require Contractor to notify the public of the application as required in Section XI.C of this Order.

VI. PUBLIC NOTICE REQUIREMENTS

- A. If Contractor is filing an application for a Permit to install a Transit Shelter, Contractor shall post the notice of the application in conspicuous places within a one hundred foot (100') radius of the proposed location of the Transit Shelter and send the notice to:
1. Fronting business and property owners.
 2. The Department and the SFMTA.
- B. If Contractor is filing an application for a Permit to install a Signal Control Cover or a Kiosk, Contractor shall post the notice of the application in

conspicuous places within a one hundred foot (100') radius of the proposed location of the facility and send the notice to:

1. All persons owning or occupying property within a one hundred and fifty foot (150') radius of the proposed location of the Signal Control Cover or Kiosk.
 2. Any neighborhood association identified by the Department of City Planning for any neighborhood within a one hundred and fifty foot (150') of radius of the proposed location of the Signal Control Cover or Kiosk.
 3. The Department and the SFMTA.
- C. The notice shall be in a form to be approved by the Department. At a minimum, the notice shall contain all of the following information:
1. A short statement describing the Transit Shelter, Signal Control Cover or Kiosk that is the subject of the Permit application.
 2. A photo-simulation of the Transit Shelter, Signal Control Cover or Kiosk that is the subject of the Permit application in the proposed location.
 3. A statement that a protest must be filed within twenty (20) Days of the date of the mailing/posting of the notice.
 4. Instructions for filing protests with the Department.
 5. The name, address, telephone number and electronic mail address of the Contractor's contact person.
 6. The name, address, telephone number and electronic mail address of the Department's contact person.
 7. The name, address, telephone number and electronic mail address of the SFMTA's contact person.
- D. The public notice and hearing requirements of this Section shall not apply to an application for a Permit to install a Transit Shelter or Kiosk if the proposed Transit Shelter or Kiosk will replace an existing Transit Shelter or Kiosk, provided that:
1. The new Transit Shelter or Kiosk will be placed on the same foundation as the existing structure (or on a new foundation within the same concrete flags as the existing structure); or

2. The new Transit Shelter or Kiosk is being placed in a different location because the location of the existing Transit Shelter or Kiosk does not fully comply with Applicable Law; and
 3. The proposed location of the new Transit Shelter or Kiosk complies with the Placement Guidelines.
- E. The public notice and hearing requirements of this Section shall not apply to an application for a Permit to install a Transit Shelter provided that:
1. All of the property within a one hundred foot (100') radius of the proposed location of the Transit Shelter is owned by the City; or
 2. The Transit Shelter is being installed at the request of a person or persons owning all of the property that is within a one hundred foot (100') radius of the proposed location of the Transit Shelter.
- F. The public notice and hearing requirements of this Section shall not apply to an application for a Permit to install a Signal Control Cover provided that:
1. The proposed Signal Control Cover will not increase the footprint of the existing signal control equipment beyond the concrete flags in which the equipment has been installed;
 2. The proposed Signal Control Cover is not an Advertising Signal Control Cover; and
 3. The proposed location of the Signal Control Cover complies with the Placement Guidelines.

VII. DEPARTMENT HEARING

- A. A protest will be timely if made by telephone electronic mail, or postmarked within twenty (20) Days of the date of the mailing or posting of the notice. Within three (3) Business Days of the Department's receipt of a protest, the Department shall notify the Contractor and SFMTA by electronic mail of such protest.
- B. If a protest is made, the Director will issue a notice scheduling a hearing for a date that is no later than twenty (20) Days after the date the protest was required to have been made.

- C. The hearing will be conducted in accordance with the following procedures:
1. The Director will appoint an impartial hearing officer to conduct the hearing. The hearing officer will be experienced in conducting proceedings of this kind.
 2. The hearing officer shall take evidence and testimony from the Department, SFMTA, Contractor, and any persons objecting to or supporting the application. If the hearing concerns an application for a Permit to install a Transit Shelter, the hearing officer shall give great weight to the testimony of the SFMTA concerning how the proposed Transit Shelter affects the convenience and necessities of transit riders.
 3. Within ten (10) Days after the hearing, the hearing officer will issue a report to the Director. In the report, the hearing officer will summarize the evidence and testimony and recommend that the Director either approve or deny the application. The hearing officer may also recommend changes to the location or installation of the structure as a condition of approval of the application. The Director may adopt, modify, or reject the hearing officer's recommendation.
 4. The Department will send a copy of the hearing officer's report to the SFMTA, the Contractor and any person who participated in the hearing.
- D. The hearing officer will base his or her recommendation, and the Director will base his or her determination, upon the following matters only:
1. Whether the proposed structure will unreasonably affect the convenience and necessities of the property owners and occupants in the immediate vicinity of the structure. With respect to Transit Shelters, the hearing officer shall consider whether the convenience and necessities of transit riders outweigh any inconvenience to property owners and occupants in the immediate vicinity of the structure.
 2. Whether Contractor could make any reasonable changes to the location or installation of the Transit Shelter, Signal Control Cover or Kiosk within the same frontage of the given address of the proposed location such that it will have less of an impact on the convenience and necessities of the property owners and occupants in the immediate vicinity of the structure.

3. With respect to Transit Shelters or Kiosks, whether Contractor could install the structure in other acceptable locations consistent with the Placement Guidelines that are preferable to the proposed location because use of such other acceptable locations will have less of an impact on the convenience and necessities of the property owners and occupants in the immediate vicinity of the structure.
- E. Within ten (10) Days after receipt of the hearing officer's recommendation, the Director will issue a final report in writing. The Director's final report shall include a determination whether the Director has approved or denied the application, or whether the Director will require Contractor to make reasonable changes to the location or installation of the structure as a condition of approval of the application. The Department will send a copy of the Director's final report to the SFMTA, the Contractor and any person who participated in the hearing.

VIII. ISSUANCE AND DURATION OF PERMIT

- A. The Department shall issue a Permit to install a Transit Shelter, Signal Control Cover or Kiosk:
1. Within five (5) Business Days of the filing of the application that complies with the Placement Guidelines contained in Section XI of this Order, if no notice is required under Sections VI.A or VI.B of this Order.
 2. Within three (3) Business Days of the end of the twenty (20) Day notice and posting period if no protest has been made.
 3. Within three (3) Business Days of the Director's decision to approve the application issued under Section VII.E.
 4. Notwithstanding the requirements of Sections VIII.A.1 and VIII.A.2, in no event shall the Department be required to process more than ten (10) applications submitted by Contractor for Permits to construct Transit Shelters, Signal Control Covers, or Kiosks in any five (5) Business Days.
- B. Every Permit shall contain a Start Date and Completion Date. The Permit shall be void if Contractor does not begin construction by the Start Date and/or complete construction by the Completion Date. On written request from Contractor, the Director may extend the Start and/or Completion Dates. Such a written request must be made at least five (5) Business Days prior to the expiration of the applicable date and must explain why the work could not be started or completed by the

Start and/or Completion Dates set forth in the Permit and specify the proposed new Start and/or Completion Dates. Any extension granted by the Director may be subject to additional special conditions, including, but not limited to, conditions that ensure the timely start and completion of construction. The Director shall inform the Contractor and SFMTA of his or her decision to grant or deny a request for an extension within five (5) Business Days of the request.

- C. If Contractor fails to obtain a Permit extension under Section VIII.B and instead allows a Permit to lapse, Contractor must file an application for a new Permit and follow all of the applicable requirements of this Order.

IX. APPEAL OF PERMIT APPROVAL OR DENIAL

The Department's approval or denial of any Permit under this Order may be appealed to the Board of Permit Appeals pursuant to Section 4.106(b) of the City's Charter.

X. APPLICATION FEE AND REMITTANCE

- A. The fee for an application for Permit to install a Transit Shelter or Kiosk in a new location or a Signal Control Cover shall be three hundred and fifty dollars (\$350.00).
- B. The fee for an application for a Permit to install a new Transit Shelter or Kiosk in the same location as an existing Transit Shelter or Kiosk shall be one hundred dollars (\$100.00). However, if public notice is required because the exceptions contained in Sections VI.D, VI.E or VI.F are inapplicable, or if inspections or related work is required for Permit review, then the regular fee of three hundred and fifty dollars (\$350.00) will be required.
- C. Contractor shall remit the application fee to the Department along with the application.

XI. PLACEMENT GUIDELINES

- A. The Department will not issue a Permit for a Transit Shelter, Signal Control Cover or Kiosk if the proposed location of the facility does not conform to all Applicable Law, including all applicable State, Federal and Local accessibility codes and regulations.
- B. Except as otherwise stated, the following Placement Guidelines shall apply to any location chosen for a Transit Shelter, Signal Control Cover or Kiosk:

1. A Transit Shelter, Signal Control Cover or Kiosk shall not obstruct pedestrians. A minimum of four feet (4') of pedestrian clearance (free of all obstacles for a clear path of travel, unobstructed pedestrian walkway) shall be maintained at all times.
2. A Transit Shelter, Signal Control Cover or Kiosk shall not intrude on pedestrian "clear zones" at street corners.
3. A Transit Shelter, Signal Control Cover or Kiosk shall be set back a minimum of five feet (5') from the edge of a crosswalk.
4. A Transit Shelter, Signal Control Cover or Kiosk shall be set back a minimum of eighteen inches (18") from the face of the curb.
5. A Transit Shelter, Signal Control Cover or Kiosk shall be set back a minimum of eight feet (8') from any fire escape and/or fire exit.
6. A Transit Shelter, Signal Control Cover or Kiosk shall be set back a minimum of five feet (5') from any fire hydrant, driveway, curb ramp, or blue zone parking space.
7. A Transit Shelter, Signal Control Cover or Kiosk shall be set back a minimum of forty inches (40") from any other above-ground structure not otherwise specified herein including, but not limited to, street light poles, parking meters, trees, etc.
8. A Signal Control Cover that displays advertising or an Advertising Kiosk shall be set back a minimum of sixty feet (60') from a Transit Shelter.
9. An Advertising Transit Shelter, Advertising Signal Control Cover or Advertising Kiosk shall be set back a minimum of five feet (5') from any certified street artist's designated area per list to be provided by the Department.
10. An Advertising Transit Shelter, Advertising Signal Control Cover or Advertising Kiosk shall be set back a minimum of sixty feet (60') from any public art work under the jurisdiction of the Arts Commission of San Francisco, except for public art on kiosks, per the San Francisco Civic Art Collection published by the Arts Commission of San Francisco, unless otherwise authorized by the Arts Commission, or its designee.
11. A Transit Shelter, Signal Control Cover or Kiosk shall not be placed over any storm drain or utility facility, except that Signal Control Covers may be placed over signal control equipment.

12. A Transit Shelter, Signal Control Cover or Kiosk shall not obstruct the view by the public of any traffic sign, wayfinding sign, traffic signal, or informational structure.
 13. Advertising Kiosks shall be placed at least one hundred fifty feet (150') apart on any block face on Market Street.
 14. Advertising Kiosks shall be placed at random, rather than in a fixed, predictable pattern.
- C. Contractor may request waiver of the Placement Guidelines. Such a request will be considered at a hearing to be conducted by the Department in accordance with Section VII of this Order. The Department may issue the Permit if the Department finds after the hearing that granting an exception to the Placements Guidelines for the particular Transit Shelter, Signal Control Cover or Kiosk is in the public interest. The Department shall require Contractor to issue a public notice under Sections VI.A and VI.B of this Order if a Permit application includes a request for an exception to the Placement Guidelines. The exceptions to the public notice requirement contained in Sections VI.D, VI.E or VI.F of this Order shall not apply to a hearing required under this Section.

XII. CONSTRUCTION REQUIREMENTS

- A. Contractor shall obtain the required permits, if any, from regulating agencies of the State of California.
- B. Contractor shall contact the Department of Parking and Traffic for traffic requirements prior to beginning construction.
- C. Contractor shall conduct its construction operations in accordance with the requirements of Article 11 of the City's Traffic Code.
- D. Contractor shall call Underground Service Alert (telephone number 1-800-277-2600) 48 hours prior to any excavation.
- E. Contractor shall be solely responsible for any damage to existing facilities.
- F. Contractor shall comply with all applicable City specifications and regulations including those contained in Article 2.4 of the City's Public Works Code and Department Order No. 171, 442.

XIII. DEPOSIT

Contractor shall submit and maintain with the Department a bond, cash deposit, or other security acceptable to the Department securing the faithful performance of the obligations of Contractor and its agent under any Transit Shelter, Signal Control Cover or Kiosk Permit issued under this Order. The deposit shall be in the sum of twenty-five thousand (\$25,000) in favor of the "Department of Public Works, City and County of San Francisco." If the Director has deducted any amounts from such a deposit pursuant to this Order, Contractor must restore the full amount of the deposit prior to the Department's issuance of a subsequent Permit.

XIV. OTHER REQUIREMENTS

- A. Contractor's use of the Public Rights-of-Way shall be subordinate to any prior lawful occupancy and the continuing right of the City to use and occupy the Public Rights-of-Way, or any part thereof, exclusively or concurrently with any other person or persons, and further subject to the public easement for streets and any and all other deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, franchises and claims of title which may affect the Public Rights-of-Way.
- B. Contractor shall not place a Transit Shelter, Signal Control Cover or Kiosk in the Public Rights-of-Way in a manner that is inconsistent with the City's Public Works Code, the rules, regulations, orders, and standard plans and specifications issued by the Department, other Applicable Law; provided that if any of the above provisions is inconsistent with this Order, this Order shall take precedence.
- C. When required to ensure the public health, safety or welfare, Contractor shall, at its own cost and expense, temporarily or permanently remove, relocate, adjust, and/or support a Transit Shelter, Signal Control Cover or Kiosk, or any part thereof, to such other locations in the Public Rights-of-Way, in such manner as appropriate and as may be approved by the City in writing and in advance, or otherwise required by the City. The City may not unreasonably withhold its approval of any plan for removal, relocation, adjustment, and/or support of a Transit Shelter, Signal Control Cover or Kiosk ordered pursuant to this Section. Such removal, relocation, adjustment, and/or support shall be completed within the time and manner prescribed by the City; however, where feasible the City may require Contractor to follow the procedures set forth in this Order to obtain a new location for a Transit Shelter, Signal Control Cover or

Kiosk. If Contractor does not remove, relocate, adjust, and/or support a Transit Shelter, Signal Control Cover or Kiosk in the manner and time prescribed by the City, the City shall take all reasonable, necessary, and appropriate action, including removing the Transit Shelter, Signal Control Cover or Kiosk, and may charge Contractor the reasonable costs actually incurred including, but not limited to, administrative costs.

- D. Whenever the City requires Contractor to remove, relocate, adjust, and/or support a Transit Shelter, Signal Control Cover or Kiosk to ensure the public health, safety or welfare, Contractor shall, after such work is complete, at its own cost and expense, promptly restore the Public Rights-of-Way in accordance with Applicable Law. If Contractor fails to restore the Public Rights-of-Way in accordance with Applicable Law, the City shall have the option to perform or cause to be performed such restoration in such manner as the City deems expedient and appropriate on behalf of Contractor and charge the actual costs incurred including, but not limited to administrative costs, to Contractor.
- E. Upon the receipt of a demand for payment by the City, Contractor shall reimburse the City for any costs incurred by the City to remove a Transit Shelter, Signal Control Cover or Kiosk or to restore the Public Rights-of-Way.
- F. The Department will not take any action that is authorized or required under this Section without first notifying and consulting with the SFMTA.

RECOMMENDED:

APPROVED:

Barbara Moy, Bureau Manager
Street-Use and Mapping

Fred V. Abadi, Ph.D. Bureau of
Director of Public Works

Dated: September 26, 2007

Dated: September 26, 2007

Distribution
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Outside of B.S.M.
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